LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7773 | **NOTE PREPARED:** Jan 31, 2005
BILL NUMBER: SB 592 | **BILL AMENDED:**

SUBJECT: Medicaid Matters.

FIRST AUTHOR: Sen. Miller | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State
DEDICATED
X FEDERAL

Summary of Legislation: This bill requires the state to offer long-term care insurance policies to state employees and requires the state to contribute $25 per state employee per year.

The bill also requires the Office of Medicaid Policy and Planning (Office) to count the value of a household good or a personal effect that is more than $2,000 as a countable resource in determining Medicaid eligibility. It also allows the Office to recover from annuity payments purchased with the assets of a Medicaid recipient or the Medicaid recipient's spouse.

The bill eliminates a limitation on the Office collecting from the estate of a surviving spouse only the amount in the deceased Medicaid recipient's probate estate.

It also provides that certain Medicaid providers who have been overpaid do not owe the state interest. The bill further allows the Secretary of Family and Social Services to reduce the amount of interest due on an overpayment in certain situations.

The bill repeals a section that limits the Office's enforcement of a lien to real property in which a Medicaid recipient has an interest value of at least $75,000.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Summary of Medicaid Resource and Estate Recovery Provisions:* The provisions affecting the level of Medicaid recoveries from Medicaid recipients' sheltered assets and estate recoveries is annually estimated to be approximately $5.62 M. Of this amount, $3.48 M would be returned to the federal government as their approximate share of the original expenditures and $2.14 M would be recovered state funds.

Medicaid Provisions

Personal Belongings: The bill would require the Office to include the value of household goods or personal belongings that have a value of more than $2,000 as a countable resource when determining Medicaid eligibility. Most personal property does not have much value on the secondary market, however, the exemption has been reported to be another means of sheltering assets in order to qualify for Medicaid. The fiscal impact of this provision will be dependent upon individual circumstances and any deterrent effect.

Annuities: The bill allows the Office to recover from annuity payments purchased with the assets of a Medicaid recipient or the Medicaid recipient's spouse. Currently, a Medicaid recipient may own an annuity, and if it is annuitized, the principal is not counted as an available asset. The annuity must be actuarially sound, and the annuity payments must be commensurate with the individual's expected life expectancy. While the monthly income of the annuity is applied towards the care of the recipient, the purchase of an immediate annuity remains as a significant means of preserving assets for heirs in the event that the Medicaid recipient dies prematurely relative to the actuarial tables. OMPP estimates that this provision could result in annual recoveries of $750,000 (federal share of $467,400 and $282,600 in state funds). Recoveries may decline over time as applicants attempt to shelter assets elsewhere.

Estate Recovery - Surviving Spouses: The bill also eliminates a limitation on the Office collecting from the estate of a surviving spouse only the amount in the deceased Medicaid recipient's probate estate. Medicaid recipients who are married at the time of death are not subject to estate recovery. OMPP reports that in most cases, the estate of a surviving spouse is exempt from estate recovery as well unless the estate of the predeceased spouse was probated. The Office estimates that increased estate recoveries could have an annual fiscal impact of $2 M (federal share of approximately $1.24 M and a state share of $752,000).

Lien Exemption: This bill eliminates the lien exemption of $75,000. Asset determination for Medicaid eligibility eliminates jointly owned assets as a countable asset towards eligibility. The $75,000 lien limit effectively exempts most of these assets from estate recovery efforts since the value of the Medicaid recipient's asset is seldom that much. (The average value of real property owned by Medicaid recipients is approximately $57,500.) OMPP estimates the annual fiscal impact of the elimination of the $75,000 lien exemption on the real estate assets of recipients to be approximately $2.87 M ($1.77 M in federal funds and $1.1 M in state funds).

Interest Provisions: This bill eliminates the obligation of providers to pay interest on Medicaid overpayments for which the error causing the overpayment to the provider was the fault of the Office of Medicaid Policy and Planning (OMPP).

OMPP does not track the reason for an overpayment in their system, so a precise estimate at this time is indeterminable. However, the total net interest collected in FY 2003 for overpayments was about $520,000, and the interest collected in FY 2004 was about $1.1 M. According to OMPP, the majority of these amounts are believed to be a result of provider-caused errors and would not be affected by the bill. However, some fraction of these interest collections would be the result of OMPP errors, resulting in some reduction in interest collections by the state.

Medicaid is jointly funded by the state and federal government. Interest collections would also be shared. The state share of reduced interest collections would be about 38%, and the federal share would be about 62%.

Background Information on Interest Provisions: Under current statute, all providers that receive an overpayment notice are subject to interest payments on the amount that OMPP determines was overpaid, from the date of the overpayment. Procedurally, a provider may (1) repay the overpayment with interest included; (2) repay the overpayment with no interest, but request a hearing and an appeal of the overpayment determination; or (3) withhold repayment of the overpayment and the interest, and request a hearing and an appeal of the overpayment determination. If the administrative appeals process results in a determination that the provider was not overpaid, OMPP would return the amount in question to the provider plus any interest the provider may have paid. OMPP would also be responsible for paying the provider interest on the money from the date of the provider's repayment.

If, on the other hand, it is determined that the provider was overpaid, interest accrues on the time the overpayment remains unpaid, regardless of whose error caused the overpayment. The interest is calculated from the time the overpayment was actually disbursed by OMPP to the time when the provider repays the overpayment. The interest rate is the same rate that is used by the Department of State Revenue.

This bill provides that for those overpayments that were, in fact, determined to be overpayments, but the overpayment was because of an error made by OMPP rather than the provider, the provider would only need to repay the overpayment with no accompanying interest.

Long-Term Care Insurance: The bill requires the state to offer state employees a long-term care insurance policy. The state is required to contribute $25 per state employee per year. As of January 2005, there were 35,268 state employees. If all employees participated, the maximum fiscal impact of this provision would be $881,700. The final cost of the provision would be dependent upon the number of state employees choosing to participate.

Explanation of State Revenues: See *Explanation of State Expenditures* regarding federal reimbursement in the Medicaid Program.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning, Family and Social Services Administration.

Local Agencies Affected:

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